

**FEDERAL COMMUNICATIONS COMMISSION
LOCAL AND STATE GOVERNMENT ADVISORY COMMITTEE**

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K. Dane Snowden, Bureau Chief
Consumer and Governmental Affairs Bureau
Federal Communications Commission
445 12th Street SW
Washington, DC 20554

Re: Consumer Complaints / Cable Modem Services

Dear Dane:

I am sending you this letter to share information which indicates, as the LSGAC predicted on May 17th, that the FCC's decision to direct consumer complaints about cable modem service to local governments, despite the Commission's ruling that cable modem services are not cable services, is causing confusion. A copy of an email message distributed on a local government list serve by the Cable Communications Administrator for Charlotte-Mecklenburg, North Carolina is attached.

On May 14, 2002, you sent me a letter indicating that while the current rulemaking proceeding addressing the appropriate regulatory treatment for cable modem service as an interstate information services is pending (GN Docket No. 00-185, CS Docket No. 02-52; FCC 02-77) the Commission would be directing all consumer complaints regarding cable modem service to local franchising authorities. As I expressed to you in a voice mail message on May 17th, and as the LSGAC forcefully explained to your Staff on that same date, LFAs are concerned that the Commission decision has had the effect of an unfunded mandate: eliminating the revenue stream to manage customer service issues in this area while suggesting that LFAs continue to monitor and enforce these issues. Your letter suggests LFAs follow the *status quo* pending the outcome of the pending cable modem rulemaking. But some at the FCC have told the cable industry not to pay fees on cable modem service, disrupting existing contracts and the *status quo*. Similarly, the Commission has failed to inform the industry that it must continue to comply with customer service standards, at the same time that your

letter is telling consumers that they can rely on local governments to enforce the standards. This has resulted in mass confusion. Even where cable modem fees have been imposed pursuant to non-Title VI authority and by agreement, operators are refusing to pay; even though consumers are being told to rely on us, cable operators are telling LFAs who do try to apply customer service standards to cable broadband complaints that the Commission's decision has ended any LFA authority over these issues. We think it is incumbent upon the Commission to eliminate the confusion that it has caused.

During the LSGAC meeting on May 17th, we had an opportunity to meet separately with Commissioners Abernathy and Martin. I believe I am portraying their reaction accurately when I state the both were somewhat surprised by the apparent inconsistency of the various Commission staff statements following the March order. We agree that LFAs are in the best position and can most effectively address consumer complaints regarding these services. However, if the Commission's position is to continue to direct consumer complaints to LFAs, the Commission *must* make a clear statement to the cable industry of its position that LFAs have the legal authority to apply and enforce these customer service standards. We also think it would be wise to make it clear that operators should honor their contracts while critical fee issues are being reviewed as part of the NPRM, so that customer service can be effectively monitored. We sincerely hope that by the time of the LSGAC's next meeting on July 26th, the Commission will have determined a reasonable way to correct this problem. In the meantime, the Commission has unfortunately, and we recognize, unintentionally, caused a deepening of the distrust between citizens and their government, by creating a situation where consumers are told by Commission Staff "call your local franchising authority with your problems", while LFAs face legal and financial challenges from cable operators in applying customer service standards to cable broadband issues.

Should you or any other representatives of the Commission wish to discuss this issue with me prior to July 26th, I am more than willing to do so.

Very truly yours,

Kenneth S. Fellman
Chairman, LSGAC

KSF/eaj

cc: Honorable Michael K. Powell, Chairman
Honorable Kathleen Q. Abernathy, Commissioner
Honorable Kevin J. Martin, Commissioner
Honorable Michael J. Copps, Commissioner
LSGAC Members and Staff
W. Kenneth Ferree, Chief, Media Bureau
Dr. Emily Hoffnar
Marlene H. Dortch, FCC Secretary